



MEETING DATE: 11/03/08
ITEM NO. 9

COUNCIL AGENDA REPORT

DATE: October 30, 2008
TO: MAYOR AND TOWN COUNCIL
FROM: GREG LARSON, TOWN MANAGER

SUBJECT: CONSIDER A REQUEST FOR APPROVAL TO MODIFY THE HOURS OF OPERATION FOR AN EXISTING BOCCIE BALL FACILITY (CAMPO DI BOCCIE) ON PROPERTY ZONED LM. APN 529-07-096. CONDITIONAL USE PERMIT U-08-008. PROPERTY LOCATION: 565 UNIVERSITY AVENUE. PROPERTY OWNER: CAMPO DI BOCCIE OF LOS GATOS, LLC. APPLICANT: CAMPO DI BOCCIE/TOM ALBANESE.

RECOMMENDATION:

1. Open and hold the public hearing and receive public testimony.
2. Close the public hearing.
3. The Council may take any of the following actions on Conditional Use Permit (CUP) application U-08-008 (**motion required**):
 - a. Approve the CUP application, subject to the required findings (Attachment 1) and conditions (Attachment 2), as recommended by Planning Commission and staff.
 - b. Deny the CUP application.
4. Refer to the Town Attorney for the preparation of the appropriate resolution if approved or denied (**no motion required**).

BACKGROUND:

On March 4, 1996, the Town Council approved a Conditional Use Permit (CUP) to operate a bocce ball facility with an ancillary snack bar. The hours of operation were approved as 10:00 am to 11:00 pm Sunday through Thursday and 10:00 am to midnight Friday and Saturday. On September 8, 1999, the Town Council approved a CUP modification concerning the number of seats, the hours of operation, and a full service restaurant use.

PREPARED BY: BUD N. LORTZ, *CLB*
DIRECTOR OF COMMUNITY DEVELOPMENT

Reviewed by: PSS Assistant Town Manager DL Town Attorney _____ Clerk _____ Finance
 ✓ Community Development

Revised: 10/30/08 10:20 AM

The hours of operation were modified and approved as 10:00 am to 10:00 pm Sunday through Wednesday and 10:00 am to midnight Thursday through Saturday.

Although the operating hours changed slightly with the 1999 CUP modification, Campo di Bocce continued to operate under the originally approved hours of operation. Campo di Bocce did not do this with the intention of violating their approval; there was a misunderstanding with the CUP modification approval.

DISCUSSION:

A. Project Summary

The applicant (Campo di Bocce) is requesting to change their operating hours to the hours they have been operating under since the original approval in 1996. Consequently, patrons and neighbors will not notice the requested change in operational hours. The Campo di Bocce is requesting approval to modify their hours of operation as follows:

| Currently Approved Hours | | Proposed Hours (as approved in original CUP) | |
|---------------------------------|---------------------|--------------------------------------------------------|---------------------|
| Sunday | 10:00 am – 10:00 pm | Sunday | 10:00 am – 11:00 pm |
| Monday | 10:00 am – 10:00 pm | Monday | 10:00 am – 11:00 pm |
| Tuesday | 10:00 am – 10:00 pm | Tuesday | 10:00 am – 11:00 pm |
| Wednesday | 10:00 am – 10:00 pm | Wednesday | 10:00 am – 11:00 pm |
| Thursday | 10:00 am – 12:00 am | Thursday | 10:00 am – 11:00 pm |
| Friday | 10:00 am – 12:00 am | Friday | 10:00 am – 12:00 am |
| Saturday | 10:00 am – 12:00 am | Saturday | 10:00 am – 12:00 am |

The Planning Commission report (Attachment 4) contains additional discussion on the proposal.

B. Alcohol Service

The use involves alcohol service and, per the Town’s Alcohol Beverage Policy, the Town Council shall be the final deciding body. Alcohol may only be served with a meal as conditioned and in accordance with the Town’s Alcohol Beverage Policy. Alcohol service is currently limited to 10:00 am to 10:00 pm Sunday through Thursday and 10:00 am to 11:00 pm Friday through Saturday, except for holidays and evenings before holidays. The applicant has not proposed a change in the hours of alcohol service. However, the use includes alcohol service after 10:00 pm and the Town’s Alcohol Policy requires the deciding body to make the following findings:

1. Late night service will not adversely impact adjacent residential neighborhoods;
2. The applicant does not have a history of complaints and non-compliances with local ordinances or the Alcohol Beverage Policy; and,

3. The applicant has demonstrated a clear benefit to the community.

PLANNING COMMISSION:

The Planning Commission recommended approval of this application on August 27, 2008 (Attachment 3). The Commission recommended two additional conditions. First, Campo di Bocce shall provide a hotline phone number to allow neighbors to contact Campo di Bocce to directly address any issues that arise. Second, Campo di Bocce shall hold neighborhood meetings twice a year to address any issues that arise. For each of these conditions, the terms 'neighbors' and 'neighborhood' consist of the owners and occupants listed in the hearing notification list which can be found in the property file.

CONCLUSION:

If the Council approves the modification to the CUP, it should make the required findings and considerations specified in Attachment 1, and approve the application, subject to the recommended conditions in Attachment 2.

ENVIRONMENTAL ASSESSMENT:

The project is Categorical Exempt pursuant to Section 15301 of CEQA as adopted by the Town, which exempts permitting an existing facility with no expansion.

FISCAL IMPACT: None.

Attachments:

1. Required findings.
2. Recommended Conditions of Approval.
3. Verbatim minutes from the Planning Commission meeting of August 27, 2008.
4. Report to the Planning Commission August 27, 2008 (Exhibits 2 and 3 incorporated as Attachment 1 and 2 of this report).
5. Desk Item to the Planning Commission for the meeting of August 27, 2008.

Distribution:

Campo di Bocce of Los Gatos c/o Tom Albanese, 565 University Avenue, Los Gatos, CA 95030

BNL:JS:mdc

REQUIRED FINDINGS AND CONSIDERATIONS FOR:

565 University Avenue

Conditional Use Permit Application U-08-008

Requesting approval to modify the hours of operation for an existing bocce ball facility (Campo di Bocce) on property zoned LM. APN 529-07-096.

PROPERTY OWNER: Campo di Bocce Los Gatos LLC

APPLICANT: Campo di Bocce Los Gatos LLC/Tom Albanese

FINDINGS

Required findings for a Conditional Use Permit:

- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.

The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of the Town Code if it finds that:

- (1) The proposed uses of the property are essential or desirable to the public convenience or welfare; and
- (2) The proposed uses will not impair the integrity and character of the zone; and
- (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
- (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

Required findings for alcohol service past 10:00 pm:

- As required by Chapter II Section 6 of the Town Alcohol Policy for granting alcohol service beyond the hours of 10 pm.

The deciding body shall make the following findings prior to approving an application for a Conditional Use Permit to serve alcoholic beverages past 10PM:

- A. Late night service will not adversely impact adjacent residential neighborhoods.
- B. The applicant does not have a history of complaints and non-compliance with local ordinances or the Alcoholic Beverage Policy.
- C. The applicant has demonstrated a clear benefit to the community.

Required finding for CEQA:

- The project is Categorical Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

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Required finding for development within the Central Los Gatos Redevelopment Project Area:

- That the proposed project is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

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RECOMMENDED CONDITIONS OF APPROVAL

November 3, 2008

565 University Avenue

Conditional Use Permit Application U-08-008

Requesting approval to modify the hours of operation for an existing bocce ball facility (Campo di Bocce) on property zoned LM. APN 529-07-096.

PROPERTY OWNER: Campo di Bocce Los Gatos LLC

APPLICANT: Campo di Bocce Los Gatos LLC/Tom Albanese

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below. Any changes or modifications shall be approved by the Director of Community Development, the Development Review Committee, the Planning Commission, or the Town Council, depending on the scope of the change(s).
2. **HOURS:** Maximum hours of operation shall be 10:00 am to 11:00 pm Sunday through Thursday, and from 10:00 am to midnight Friday through Saturday.
3. **HOURS OF ALCOHOLIC BEVERAGE:** The service of alcoholic beverages shall not be permitted after 10:00 pm Sunday through Thursday, except for holidays and evenings before holidays, and shall not be permitted after 11:00 pm Fridays and Saturdays.
4. **SEATS:** The maximum number of indoor and/or outdoor seats permitted Monday through Friday from 10 AM to 5 PM is 70. The maximum number of indoor and/or outdoor seats Monday through Friday from 5 PM to closing and during the Saturday and Sunday business hours is one hundred twenty (120) provided both leases for the alternate use of parking at 573 University Avenue and 536 N. Santa Cruz Avenue are in effect. If either of the leases for alternate site parking is terminated, cancelled, or not extended, the maximum number of seats permitted is seventy (70) if both leases are canceled, or ninety-five (95) if only one lease is canceled. These seats shall be available for patrons of the food service or waiting to play bocce.
5. **SERVICE OF ALCOHOLIC BEVERAGES:** Alcoholic beverages may only be served with meals and is permitted for inside and outside seating. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.
6. **LITTER:** The tenant shall monitor the outside seating area and dispose any litter which is in the vicinity.
7. **SIGNS:** Large illuminated signs, meeting all Town Code requirements, shall be installed in strategic locations to ensure that motorists are aware of the alternate parking sites. Signs, meeting Town Code, shall also be placed at the entrance to

both off-site parking lots to assure patrons that it is acceptable to park in these lots during certain hours.

8. **MARKING ALTERNATIVE PARKING SPACES:** Fifteen (15) parking spaces in each lot shall be prominently marked as “reserved for patrons of Campo di Bocce during the hours of 5:00pm to 11:00 pm Monday through Thursday, 5:00 pm through midnight Friday, 10:00 am to midnight Saturday, and 10:00 am to 11:00 pm Sunday.”
9. **DIRECTIONS TO MOTORISTS:** During peak times on Friday and Saturday evenings from 7:00 pm to 10:30 pm, the applicant shall make a parking attendant available who shall direct customers to one of two adjoining approved off-site parking lots. Also, parking diagrams shall be handed out by the parking attendants giving patrons clear directions to the adjoining approved off-site parking lots.
10. **LIGHTING:** The applicant shall provide additional lighting in the parking lots of the alternate parking site within 90 days of approval of this permit. This lighting shall meet all Town requirements and the required permits from the Building Department must be obtained.
11. **LEASE AGREEMENTS:** That in order to operate a bocce ball/restaurant facility with one hundred twenty (120) seats during the hours of 5:00 pm to 11:00 pm Monday through Thursday, from 5:00 pm to midnight Friday, and 10:00 am to closing Saturday and Sunday, the applicant must at all times be a party to valid and fully enforceable lease agreements, each allowing exclusive use of fifteen (15) parking spaces during the hours of 5:00 pm to 11:00 pm Monday through Thursday, 5:00 pm to midnight Friday, 10:00 am to midnight Saturday, and 10:00 am to 11:00 pm Sunday at 573 University Avenue and 536 N. Santa Cruz Avenue.
12. **COPIES OF LEASES:** Applicant shall lodge copies of each lease agreement with the Town Community Development Department within three (3) weeks of Town Council decision, and shall lodge copies of subsequently revised, amended, extended or otherwise modified lease agreements, including copies of any correspondence exercising options, terminating or canceling the leases, within five (5) working days after the agreements are signed by the parties or the correspondence is mailed.
13. **APPROVED USE:** That the restaurant shall only be operated in conjunction with a bocce ball operation providing at all times a minimum of five (5) bocce ball courts, and may not be operated independent of a bocce ball operation without obtaining a new variance allowing off-site parking for a restaurant use only, and a modification of the existing use conditional use permit allowing the operation of a full service restaurant independent of a bocce ball operation.
14. **NEIGHBORHOOD MEETINGS:** The business owner(s) shall meet with surrounding neighbors at least twice a year for the first year, and as necessary thereafter, to address any concerns. A record of attendants (name and property address) and issues discussed shall be kept on record by Campo di Bocce (or subsequent business) and be made available for review at the request of the Community Development Department. The terms ‘neighbors’ and ‘neighborhood’ consist of the owners and occupants listed in the hearing

- notification list which can be found in the property file.
15. **HOTLINE:** A hotline for complaints shall be available and provided to all neighbors. A record of callers (name and property address) and issues shall be kept on record by Campo di Bocce (or subsequent business) and be made available for review at the request of the Community Development Department. The term 'neighbors' consists of the owners and occupants listed in the hearing notification list which can be found in the property file.
 16. **ONE YEAR REVIEW:** Town staff shall review the Conditional Use Permit within one year from approval to determine if there are any problems associated with the permit and report their findings to the Planning Commission. The Planning Commission may direct that a public hearing be held to review the permit as specified in Section 29.20.310 of the Town Code.
 17. **TOWN INDEMNITY:** Applicants are notified that Town Code Section 1.10.115 requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval.

TO THE SATISFACTION OF THE POLICE CHIEF

16. **GENERAL.** The restaurant is subject to the following:
 - a. Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.
 - b. At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.
 - c. All establishments shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association.
 - d. All licensed operators shall have and shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
 - e. Taxicab telephone numbers shall be posted in a visible location.
 - f. Alcoholic beverage service in the outdoor seating area shall have adequate separation from public areas.
 - g. A physical delineation in the form of landscaping or planters is required to separate public and private property. The height of the separation shall be a minimum of three feet. The separation shall be designed to prevent passing or carrying alcoholic beverages outside the restaurant seating area. The separation shall clearly suggest that alcohol is not permitted outside the restaurant seating area.
 - h. A restaurant employee shall seat patrons in the outside dining area.

TO THE SATISFACTION OF CENTRAL FIRE PROTECTION DISTRICT

17. The kitchen shall be provided with an automatic fire extinguishing system for the cooking appliances as may be required. Approved portable fire extinguishers shall also be provided.
18. An approved manual and automatic fire alarm with an approved voice notification system may be required depending on the seating count.

A P P E A R A N C E S:

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3 Los Gatos Planning
Commissioners: Michael Kane, Chair
John Bourgeois
4 Marcia Jensen
Phil Micciche
5 Tom O'Donnell
Marico Sayoc
6 Joanne Talesfore
7
8 Director of
Community Development: Bud Lortz
9
10 Assistant Director of
Community Development: Randy Tsuda
11
12 Town Attorney: Orry Korb
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14
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16
17
18 Transcribed by: Vicki L. Blandin
(510) 337-1558
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LOS GATOS PLANNING COMMISSION 8/27/2008
Item #5, 565 University Avenue

P R O C E E D I N G S:

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3 CHAIR KANE: So we're going to go now to our
4 second and final new public hearing for the evening, Item
5 #5 on the agenda, 565 University Avenue. This is
6 Architecture and Site Application U-08-008, requesting
7 approval to modify the hours of operation for an existing
8 bocce ball facility, Campo di Bocce, on property zoned LM.
9 This is APN 529-07-096. The property owner is Campo di
10 Bocce, Los Gatos LLC. The Applicant is Campo di Bocce, Los
11 Gatos LLC and Tom Albanese. Mr. Lortz, do we have a Staff
12 Report?

13 DIRECTOR LORTZ: Very simply, they've been
14 operating in violation of the use permit, not maliciously
15 but just they were of the understanding that they could
16 operate until 11:00, I believe it is, and the Conditions of
17 Approval limit them till 10:00 o'clock, so they're asking
18 now to extend their hours to 11:00 o'clock.

19 CHAIR KANE: Questions for Staff? Commissioner
20 O'Donnell.

21 COMMISSIONER O'DONNELL: Is there any background?
22 I came away with the impression that there was some
23 confusion, am I wrong, at the time this was approved
24 originally?
25

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1 DIRECTOR LORTZ: Well there was confusion on the
2 part of the Applicant. I don't think there was confusion on
3 the part of the adoption of the resolution that the Council
4 ultimately adopted; it's very clear in the text of the
5 resolution. The Applicant just thought that they were
6 continuing to operate under the old Conditions of Approval
7 and they were modified.

8 COMMISSIONER O'DONNELL: Had their application,
9 which was the before the Council, asked for the 11:00
10 o'clock hour?

11 DIRECTOR LORTZ: No. It was reduced because under
12 the current Alcohol Policy 10:00 o'clock is the cutoff, and
13 so you have to make certain findings beyond that, and the
14 Council took action to limit it to 10:00 o'clock.

15 ORRY KORB: And Mr. Albanese may be able to
16 address it more clearly, but my recollection is that there
17 was actually a series of two, if not more, applications over
18 a short period of time related to this site, and that
19 through the course of the processing of those applications
20 the reduction in hours may have occurred and that may have
21 been something that was not understood by Mr. Albanese, but
22 it was very clear in the final resolution adopted by the
23 Council what the hours of operation were supposed to be.

24 CHAIR KANE: Other questions for Staff?
25 Commissioner Bourgeois.

1 COMMISSIONER BOURGEOIS: Do you know has there
2 been any complaints to the police department from the
3 adjacent residential areas?

4 DIRECTOR LORTZ: Back in 2000 there were
5 complaints. There hasn't been complaints filed more recent
6 than that. There were comments, and they're in the Desk
7 Item, but I think there was the assumption that they going
8 to go later than they've been operating, and that's not the
9 case. I guess the question is could there be better
10 communication between the Applicant and the neighbors?
11 Probably.

12 CHAIR KANE: Other questions of Staff? If not, I
13 will open the public hearing and shortly call the Applicant,
14 who will have up to five minutes to speak. After other
15 public members speak the Applicant may then have three
16 minutes for rebuttal. If there are members of the public
17 present and wish to speak on this matter after the
18 Applicant, please turn in a speaker card. You will have up
19 to three minutes to speak. I will now call the Applicant,
20 Mr. Albanese.

21 TOM ALBANESE: Good evening, or almost good
22 morning. There's some discussion on how this all kind of
23 happened, and originally back our operating hours as
24 approved when we first opened were Sunday through Thursday
25 10:00am to 11:00pm, Friday and Saturday 10:00am to midnight,
with alcohol ceasing to be served one hour before closing

1 time. That's what was approved in 1996 and that's the way we
2 opened and that was our posted hours.

3 Along come a request for us to at the time
4 increase our number of seats and our parking. At the same
5 time we included a request to extend our ending time by one
6 hour, thereby closing at midnight Sunday through Thursday
7 and Friday and Saturday till 1:00.

8 If I'm correct, and there's plenty of minutes and
9 backup in the report to show that our seats and our parking
10 were approved, because we went out and procured leases for
11 the additional parking and a number of seats were approved
12 as requested. What was not addressed, and there's no mention
13 in anything that I can find, and I'm not sure if the Town
14 can find, that the hours were even dealt with. The hours
15 were to remain the same. There was no indication and no
16 discussion of any record at that time that the hours were to
17 be changed from Sunday through Wednesday from 10:00am to
18 10:00pm, so changing a whole day plus reducing us by one
19 hour, and on Thursday, Friday and Saturday adding an hour on
20 Thursday night, being open to midnight. We were not asking
21 to add our hours or taking away our hours, so this is why
22 there's a sense of confusion and we've had some discussion
23 with the Town folks regarding this.

24 It was my fault, my architect's fault. I put all
25 the blame on myself that when the finality came out of the
approving of the seats and the parking the hours were

1 misprinted and I believe, and it was my fault for not
2 catching it, and I really kind of believe looking through
3 all the materials that the hours were kind of skewed towards
4 the alcohol serving time and not the actual closing time,
5 bearing in mind the alcohol time was one hour before we
6 closed. And you won't find anything unless the Town has
7 discovered any minutes, anything to deal with actually
8 giving us an extra hour and taking away an extra hour and
9 changing the days that they were subject to. So we have been
10 operating as we were approved back in 1996.

11 We opened in 1997 and I believe our record is
12 fairly clean and fortunately we've had a chance to discuss
13 things with the neighbors. We've flushed out some
14 neighborhood issues, which we're going to really work on
15 that we should have known about, been aware of, that have
16 nothing to do with our hours, but I'm not sure where the
17 confusion is other than our mistake and our rereading the
18 approvals that took place back in 1998, I believe; I may be
19 off on my years here.

20 So I don't know if I've clarified or if I've more
21 confused the issue, but there's facts here, the facts of
22 what our approved hours were, and there's facts that say our
23 approved hours were never changed by any motion. You won't
24 find a motion to take away an hour or a motion to add an
25 hour when the new hours were posted and voted on. You won't
find any, unless I'm mistaken. So I'm unclear how it

1 happened, but that's the pure honesty of how we've been
2 operating.

3 CHAIR KANE: Thank you. Mr. Lortz, can you
4 comment? We had a discussion about the history and there was
5 a belief that Council did what they did and knew what they
6 were doing when they did it.

7 COMMISSIONER MICCICHE: That's hard to believe.

8 DIRECTOR LORTZ: Well I believe they knew what
9 they were doing. Now whether it's consistent with what the
10 Applicant wanted then to do is another story. There's an
11 hour difference. They're trying to go back to what they were
12 approved originally in terms of the 11:00 o'clock time. We
13 can go into the history and it's confusing and I think it's
14 too late to really make any sense out of it, because neither
15 he nor we can create any kind of particular track record.

16 What I would say is that typically when somebody
17 goes through the process of wanting to do more, we might
18 allow that, but then we try to go back to the policy and
19 that's probably what happened is it went to the 10:00
20 o'clock, which is what the Alcohol Policy cuts off alcohol
21 service at, and so the question now is can you make the
22 findings in terms of the community benefit and all the rest
23 of it, which is what's in the Staff Report.

24 TOM ALBANESE: If I may make one more comment. In
25 that whole, which is correct, but that's probably one of the
theories, but the crazy thing is that we were actually given

1 an extra hour. We haven't been operating that extra hour for
2 ten years, and why we would stop serving alcohol at 10:00
3 when really we're open till midnight, that's beer and wine
4 by the way, but you know that, so it's kind of odd that we
5 were added an hour but taken away an hour and have a two
6 hour.. We close at midnight three nights a week and we close
7 at 10:00 o'clock the other four nights.

8 CHAIR KANE: We got it.

9 CHAIR KANE: Other questions? Commissioner
10 Micciche.

11 COMMISSIONER MICCICHE: If it appears I'm a little
12 confused, I just act this way. What he's asking for now he
13 had before he came in here and asked for a change in parking
14 and so forth?

15 DIRECTOR LORTZ: Yes, back in 1996.

16 COMMISSIONER MICCICHE: Okay, so the Town Council
17 then approved it and it was all approved by everybody at
18 that point?

19 DIRECTOR LORTZ: Correct.

20 COMMISSIONER MICCICHE: And then we came back for
21 the modification, somebody took it away?

22 DIRECTOR LORTZ: It was reduced.

23 COMMISSIONER MICCICHE: It was reduced. It wasn't
24 requested to be reduced?

25 DIRECTOR LORTZ: Correct.

COMMISSIONER MICCICHE: It was just reduced.

1 DIRECTOR LORTZ: Right.

2 COMMISSIONER MICCICHE: Now I'm clear.

3 DIRECTOR LORTZ: And it comes as no surprise to
4 the Planning Commission or the Council that sometimes we do
5 things that the Applicant doesn't want. I mean we do that
6 all the time.

7 COMMISSIONER MICCICHE: Okay.

8 CHAIR KANE: I have speaker cards and we will call
9 you back for rebuttal after the speaker cards. Elizabeth
10 McCoy. Give your name and address, please.

11 ELIZABETH McCOY: Elizabeth McCoy, 225 Avery Lane,
12 the Miraloma Apartments; I'm the residential manager.

13 My concern, as I had mentioned to the gentleman
14 during a break, is the noise level that comes from their
15 restaurant. It's not all the time, but when it is big, it's
16 over the top. I've been there three years now. Quite often
17 there are people who are inebriated coming down the street
18 very late at night, very noisy. Many of our bedrooms are on
19 the street, on Avery. Our building has 31 apartments and at
20 least 12 of the apartments are right on Avery Lane with the
21 bedrooms there. You're awakened late at night, you get up,
22 you try to go back to sleep, it's hard. I get dressed, I go
23 out with a phone and flashlight and tell them, "Be quiet or
24 I'm calling the police," and it's very annoying, so I'm
25 hoping that something can be worked out, because we are a
residential area.

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1 Now it may be a Jackie Mason statement of we're
2 adjacent, but we are residential, so many of us, and I don't
3 know if the restaurant is in a commercial area, but as fate
4 would have it, and our building has been there over 30
5 years, it's very residential, so my concern is the noise
6 level.

7 When I saw the hours, 11:00 and 12:00 o'clock at
8 night, it's late for a residential area, and if there's a
9 way to just get the noise level down, they don't have A/C,
10 as they had mentioned, that's why the doors are open and the
11 windows are open with fans going, so you do hear some noise.
12 It's not all the time, in fairness. Quite often you don't
13 hear it, it's a very quiet area, but when you hear it it is
14 over the top. So thank you.

15 CHAIR KANE: Thank you. Questions for the speaker?
16 Thank you. Ben Musolf.

17 BEN MUSOLF: Good evening. My name is Ben Musolf;
18 I'm the general manager of Campo di Bocce.

19 In December of 2007 restaurateurs and managers
20 alike of the Los Gatos community were invited to come to
21 this chambers to be given an alcohol awareness seminar,
22 which I attended with my management staff, where Chief
23 Seaman gave a speech, and at that time Mr. Lortz handed out
24 the conditional use permits so that we were up to speed, and
25 I pointed out, I said, "I believe that there may be a
misprint here," and here we are today.

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1 I started with the company 11 years ago
2 understanding what the current operating hours were. It was
3 never under any notice of change whatsoever. We now have two
4 operations due to community success and support.

5 I did take the time yesterday afternoon, knowing
6 that this was going forward, to outreach to the neighboring
7 homes.

8 I went to 564 University, which is directly
9 parallel to us on the other side of University, left my
10 card; I did not get a response. I spoke with his brother and
11 he seemed to think everything was okay.

12 Perpendicular on Avery Lane to our restaurant I
13 spoke to Lane Gore (phonetic). He was concerned that we were
14 asking for an extension of hours. Once I explained to him
15 what was the scenario he was fine with the current operation
16 of what our hours of operation are posted. He said, "That's
17 what you want to keep?" I said, "Yes, that's it. That is
18 what we want," and of course said, "Whatever you need, we're
19 there to help and support."

20 I spoke with Lisa Aden (phonetic) at 550% directly
21 across the street from Mr. Gore. She's fine. She's loves our
22 facility as long as we do our part to keep the community and
23 neighboring areas (inaudible).

24 I spoke with William Rinehart (phonetic) at 550
25 University, right in front, directly across the street from
our parking lot, and his only concern was sometimes that we

1 do have commercial buses that drive the corporate events and
2 team building events from the Silicon Valley, and we do our
3 best to definitely talk with the bus drivers to move them
4 behind the Safeway shopping center, because it is a
5 municipal lot. Sometimes with the lights off we can't see
6 them, but we are instructed to address that, and we do do
7 that.

8 And I spoke with Mr. Hellabrook (phonetic) at 540
9 University on the kitty-corner from us in the yellow home,
10 and he was afraid that we were trying to get a nightclub,
11 and I assured him that no, we're definitely not doing that
12 and we'd just like to continue our hours.

13 CHAIR KANE: Thank you. Questions for the speaker?
14 Commissioner Sayoc.

15 COMMISSIONER SAYOC: One of our Desk Items is an
16 email from a Chris Wiley at 544 University Avenue. Did you
17 talk to anyone from that residence?

18 BEN MUSOLF: No, unfortunately she's out of the
19 country.

20 COMMISSIONER SAYOC: Did you get a copy of her
21 email?

22 BEN MUSOLF: I did not.

23 COMMISSIONER SAYOC: Basically she is concerned
24 about noise, and the big issue based on the number of words
25 is parking, and that amount of parking that occurs on her
property. Is this something that you can address immediately

1 so that should you get your hours we can assured that a
2 neighbor that has lodged a complaint will not be calling us
3 with further complaints in the future?

4 BEN MUSOLF: As Ms. McCoy stated during our break,
5 we did come to an agreement, which will be implemented
6 immediately. I will have a doorman at the front door every
7 evening, if that's necessary. We'd like to have it on
8 Thursday, Friday, Saturday, because I don't know that Sunday
9 through Wednesday is necessary, but we definitely will
10 address it in more impactful manner, and the front desk and
11 hostess stand when guests come in finding out where did you
12 park and making sure.

13 In addition to parking we do lease three lots
14 additional to our adjacent lot, giving us ample parking for
15 the seating permitted, so we definitely will do a better job
16 at monitoring the parking.

17 CHAIR KANE: Ms. Wiley, Chris Wiley, is a service
18 person currently stationed in Iraq, and I'm wondering if you
19 would agree to get together later and exchange ways to
20 contact each other so that you can sum up what the new
21 program is and we can send her a letter in Iraq that some
22 corrective actions are being taken, because she took the
23 time to write this from Iraq and I think it would be nice if
24 we got back to her and said certain remedies are being
25 considered and the neighbor is being very responsive. Would
that be okay?

1 BEN MUSOLF: I'd be happy to.

2 CHAIR KANE: Thank you.

3 BEN MUSOLF: Would you like it in a hard letter or
4 an email?

5 CHAIR KANE: I will get with you, I promise.

6 BEN MUSOLF: Okay.

7 CHAIR KANE: Commissioner Talesfore.

8 COMMISSIONER TALESFORE: Thank you, and thank you
9 for coming down and explaining what was going on. I do have
10 a question; it's somewhat as Commissioner Sayoc's line of
11 questioning, and that is you said that you went around to
12 the neighbors, because of these letters that you became
13 aware of, or people who had complaints become aware of. Is
14 that correct, you went around to neighbors?

15 BEN MUSOLF: Actually I was only made aware of
16 their concerns upon reaching them. We were being proactive
17 prior to the meeting to let them know.

18 COMMISSIONER TALESFORE: Have you ever done that
19 before in the years prior to this?

20 BEN MUSOLF: We have, yes.

21 COMMISSIONER TALESFORE: You have. So can you tell
22 me do you make an effort once a year? Do you invite them in?
23 Do you go out? How does that work? Because we don't want to
24 get you in a position of a golden reputation being somewhat
25 tarnished.

1 BEN MUSOLF: No, I agree that we could do a better
2 job with communication. It's typically when we have big
3 events, when we know that there will be a large number of
4 people coming at once and leaving at once. For instance, we
5 used to do the John Madden and Steve Marucci bocce charity
6 event and we cordoned the community center on Avery, and we
7 did Ballet for Safety, but that's one instance. But yes, we
8 have in the past, and we definitely are going to make a
9 better effort at communicating.

10 COMMISSIONER TALESFORE: Do you think you might
11 commit to doing that once a year?

12 BEN MUSOLF: I'd like to commit to doing it at
13 least quarterly.

14 COMMISSIONER TALESFORE: Oh, okay. That would be
15 awesome. I don't know how we would monitor that, but at
16 least twice a year or something. So I appreciate your
17 commitment to that. Thank you.

18 BEN MUSOLF: Sure.

19 CHAIR KANE: Actually we had discussed something
20 along those lines, and semi-annual was discussed, and then
21 it was discussed, Mr. Albanese, that what would be nice is
22 to around December 15th have your neighbors in for this
23 meeting of how things are going and have a little Christmas
24 cheer, and listen to any concerns or complaints they might
25 make.

1 But more so than quarter or annual we were hoping
2 you would develop maybe a card with a hotline on it, so that
3 if the folks are blaring out the music at 2:00 in the
4 morning or whatever the complaint is, that there is someone
5 one could call so they don't feel helpless and annoyed and
6 there's nothing they can do about it. If they had a hotline
7 number I think people would feel empowered, and you as a
8 great business in Los Gatos would then also be viewed as a
9 great neighbor.

10 BEN MUSOLF: At the break, talking with Ms. McCoy,
11 she now has both Mr. Albanese and myself's direct lines, so
12 that's the first step, and we'll have some permanent ones
13 made up as well.

14 CHAIR KANE: And get that number to Ms. Wiley too.

15 BEN MUSOLF: Absolutely.

16 CHAIR KANE: Are there other questions for the
17 Applicant? Seeing none, Mr. Albanese, you have three minutes
18 to rebut anything you've heard, if you'd like to reapproach.

19 TOM ALBANESE: I think we're done.

20 CHAIR KANE: I'd like you to reapproach, please. I
21 have one other item. No stay, please. Manager person, stay
22 too.

23 You said you went to the Alcohol Policy
24 educational thing with the Chief and other folks. What I
25 did, Tom, was I went to visit Bocce twice, and both times
folks were just drinking and having a great ol' time and I

1 didn't see any food, so I thought we'd have an educational
2 opportunity here to say the Alcohol Policy requires that we
3 serve a meal with drinks, I think.

4 When I went in the second time I went in with
5 friends and ordered a beer. I'd introduced myself to one of
6 your managers, who shall remain nameless, that I was
7 planning commissioner, that the hearing was coming up and I
8 was just looking around, and I came back later with friends
9 and met the manager again and ordered a beer, and I was
10 served, and I said, "Let me see a menu so I can buy a meal,"
11 and the bartender standing next to the manager said, "You
12 don't need to do that," and I said, "Gee, I really do need
13 to do that." "No, you don't need to do that."

14 So, you know, I think there's a lot of flexibility
15 in town and a little bit of slippage here and there, and I
16 just thought well since you're applying for a CUP
17 technically, and since it's going to go to Town Council,
18 because we won't decide it, it might just be an opportunity
19 to say you might need to revisit that session you had with
20 the Chief on what the Alcohol Policy is, because it seemed
21 pretty loose when I was there. They gladly served me and
22 those round tables where there was just beer and wine on the
23 table and no food in sight, and I made two visits and that
24 seemed to be rather prevalent.
25

1 Again, it's a great business for Los Gatos and you
2 can be and have been responsible great neighbors, and you
3 might want to take a closer look at the policy.

4 TOM ALBANESE: That's definitely going to happen
5 tomorrow. Thank you for bringing that up.

6 CHAIR KANE: Thank you, Mr. Albanese. Questions
7 for the Applicant? Seeing none, I'm going to close the
8 public hearing. Thank you.

9 I want to look to Commission for discussion or a
10 motion. All those who visited the site please indicate. Is
11 there any other evidence that needs to be put on the record?
12 Seeing none, Commissioner O'Donnell.

13 COMMISSIONER O'DONNELL: I just have a question of
14 Staff, just to revisit. The hours that they're asking for is
15 to go back to their 1996 hours and I think that's discussed
16 on page two of this report, and apparently only when they go
17 to midnight does the policy then kick in, because as I
18 understood it they said if they close at 11:00 they stop
19 serving at 10:00, and the policy says if you serve alcohol
20 after 10:00 you've got to do something, so they're asking to
21 go past 10:00 on two nights, Friday and Saturday, is that
22 the same as your understanding?

23 DIRECTOR LORTZ: Yes.

24 COMMISSIONER O'DONNELL: Okay, thank you. I just
25 want to clarify that. Okay.

1 DIRECTOR LORTZ: One thing about clarification is
2 whether they're serving alcohol past 10:00.

3 COMMISSIONER O'DONNELL: He said not.

4 DIRECTOR LORTZ: And he said no, and so if they're
5 not serving alcohol past 10:00, then you don't have to make
6 the...

7 COMMISSIONER O'DONNELL: Excuse me, I misspoke. I
8 didn't understand it to say forever. He said, "If we close
9 at 11:00, we stop serving at 10:00." We didn't talk about if
10 he closes at 12:00, but I assume he would stop at 11:00, but
11 that's still past 10:00.

12 DIRECTOR LORTZ: Right.

13 CHAIR KANE: All right, let us begin with
14 Commissioner Sayoc and move to her left.

15 COMMISSIONER SAYOC: A quick question then for Mr.
16 Lortz. I just got confused by that. So on Fridays and
17 Saturdays are we applying the alcohol policy, since they are
18 not serving past 10:00?

19 DIRECTOR LORTZ: We are, but they already have
20 those hours.

21 COMMISSIONER SAYOC: Okay. Then my understanding
22 is that we are not applying the Alcohol Policy.

23 COMMISSIONER O'DONNELL: Sunday through Thursday.

24 COMMISSIONER SAYOC: I see. Got it.

25 CHAIR KANE: They wanted additional hours, Sunday
through Thurs, which is what they had back in 1996.

1 DIRECTOR LORTZ: Correct.

2 CHAIR KANE: It's what they have now.

3 COMMISSIONER SAYOC: Well I'm ready to go ahead
4 and make a motion.

5 CHAIR KANE: Please do.

6 COMMISSIONER SAYOC: This is going to be a
7 recommendation to the Town Council, pursuant to the Town's
8 Alcohol Policy. I'm going to make the required findings in
9 Exhibit #2, the required findings for a Conditional Use
10 Permit.

11 The proposed uses of the property are desirable to
12 the public convenience as attested by its continued
13 successful operation. The proposed uses will not impair the
14 integrity and character of the zone, as we had discussed
15 with the issues that have been presented to us but the
16 solutions that have also been presented that we have all
17 agreed upon. The proposed uses will not be detrimental to
18 public health, safety, or general welfare. The proposed uses
19 of the property are in harmony with the various elements or
20 objectives of the General Plan and the purpose of the Town
21 Code. I can also make the findings for alcohol service past
22 10:00pm; those are contained in Exhibit #2, and this project
23 is categorically exempt pursuant to the 15.301 of the State
24 Environmental Guidelines. So I recommend approval of the
25 application to Council subject to conditions in Exhibit #3.

1 CHAIR KANE: Commissioner Sayoc, I would second it
2 if you would consider adding what we discussed, which was
3 adding whatever the right word is.

4 DIRECTOR LORTZ: Two conditions. One would be that
5 they meet with the neighbors... How often?

6 COMMISSIONER TALESFORE: Four times. He said four
7 times.

8 DIRECTOR LORTZ: He said quarterly?

9 CHAIR KANE: At least semi-annually. He said
10 quarterly, but I don't know, time flies when you're having
11 fun. He can do it as many times as he wants.

12 DIRECTOR LORTZ: Twice.

13 CHAIR KANE: At least semi-annually.

14 DIRECTOR LORTZ: Semi-annually.

15 CHAIR KANE: And we want to be invited to the
16 Christmas party.

17 DIRECTOR LORTZ: And then a hotline telephone
18 number would be provided to the folks that got notice of
19 this meeting.

20 CHAIR KANE: Hotline cards to the surrounding
21 neighbors. Is that acceptable?

22 COMMISSIONER SAYOC: Yes, I will accept those two
23 conditions.

24 CHAIR KANE: I second the motion then. Discussion?
25 Seeing none, I'm going to call the question. All those in

1 favor? Opposed? Motion carries 6-1. Commissioner Bourgeois
2 votes no.

3 ORRY KORB: There are no appeal rights. The action
4 of the Planning Commission is a recommendation to the Town
5 Council. A hearing will be scheduled before the Town Council
6 and notice will be given.



TOWN OF LOS GATOS
PLANNING COMMISSION STAFF REPORT
Meeting Date: August 27, 2008

ITEM NO. 5

PREPARED BY: Jennifer L. Savage
Assistant Planner

APPLICATION NO.: Conditional Use Permit Modification Application U-08-008

LOCATION: **565 University Avenue** (west side of University Avenue, approximately one-quarter mile south of Blossom Hill Road)

APPLICANT: Campo di Bocci/Tom Albanese

PROPERTY OWNER: Campo di Bocci of Los Gatos LLC

CONTACT PERSON: Tom Albanese
(408) 404-1046

APPLICATION SUMMARY: Requesting approval to modify the hours of operation for an existing bocce ball facility (Campo di Bocce) on property zoned LM. APN 529-07-096.

DEEMED COMPLETE: May 20, 2008
FINAL DATE TO TAKE ACTION: November 20, 2008

RECOMMENDATION: Provide recommendation to Town Council.

PROJECT DATA: General Plan Designation: Service Commercial
Zoning Designation: LM - Commercial Industrial
Applicable Plans & Standards: Central Los Gatos
Redevelopment Plan
Parcel Size: 37,193 square feet
Surrounding Area:

| | Existing Land Use | General Plan | Zoning |
|-------|-------------------|--------------------------|----------|
| North | Commercial | Service Commercial | LM |
| East | Residential | High Density Residential | RM-12:20 |
| South | Residential | Med. Density Residential | R-1D |
| West | Commercial | Neighborhood Com. | C-1 |

CEQA: The project is Categoricaly Exempt according to Section 15301 of the State Environmental Guidelines as adopted by the Town because the project consists of permitting an existing facility with no expansion.

FINDINGS:

- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.
- As required by the Town's Alcohol Beverage Policy for alcohol service past 10:00 pm.
- As required by Section 15301 of the State Environmental Guidelines as adopted by the Town that this project is Categorically Exempt.
- As required by Section IV.B of the Redevelopment Plan for the Central Los Gatos Redevelopment Project that it meets the use set forth in the Town's General Plan.

CONSIDERATIONS:

None.

ACTION:

Recommendation to Town Council.

EXHIBITS:

1. Location Map (one page)
2. Findings and Considerations (two pages)
3. Recommended Conditions of Approval (three pages)
4. Letter Requesting Modification of Hours (one page)

BACKGROUND:

On March 4, 1996, the Town Council approved a Conditional Use Permit (CUP) to operate a bocce ball facility with an ancillary snack bar. The hours of operation were approved as 10:00 am to 11:00 pm Sunday through Thursday and 10:00 am to midnight Friday and Saturday. On September 8, 1999, the Town Council approved a CUP modification concerning the number of seats, the hours of operation, and a full service restaurant use. The hours of operation were modified and approved as 10:00 am to 10:00 pm Sunday through Wednesday and 10:00 am to midnight Thursday through Saturday.

PROJECT DESCRIPTION:

The applicant has requested to change the hours of operation to 10:00 am to 11:00 pm Sunday through Thursday and 10:00 am to midnight Friday through Saturday. The request requires a modification to the existing CUP. The use involves alcohol service and, per the Town's Alcohol Beverage Policy, the Planning Commission shall make a recommendation to the Town Council. The Town Council shall be the final deciding body.

ANALYSIS:

A. Hours of Operation

The existing hours are 10:00 am to 10:00 pm Sunday through Wednesday and 10:00 am to midnight Thursday through Saturday. The applicant has proposed the hours of operation of 10:00 am to 11:00 pm Sunday through Thursday and 10:00 am to midnight Friday through Saturday. Hours of operation will increase by one hour Sunday through Wednesday and decrease by one hour on Thursday.

B. Alcohol Service

Alcohol may only be served with a meal as conditioned and in accordance with the Town's Alcohol Beverage Policy. Alcohol service is currently limited to 10:00 am to 10:00 pm Sunday through Thursday and 10:00 am to 11:00 pm Friday through Saturday, except for holidays and evenings before holidays. The applicant has not proposed a change in the hours of alcohol service. However, the use includes alcohol service after 10:00 pm and the Town's Alcohol Policy requires the deciding body to make the following findings:

1. Late night service will not adversely impact adjacent residential neighborhoods;
2. The applicant does not have a history of complaints and non-compliances with local ordinances or the Alcohol Beverage Policy; and,
3. The applicant has demonstrated a clear benefit to the community.

C. Traffic and Parking

The site contains 28 parking spaces that provide parking for 7 bocce ball courts and 70 seats Monday through Friday 10:00 am to 5:00 pm. Off-site parking was approved by Town Council as part of the 1999 CUP modification. The off-site parking allows 120 total seats Monday through Friday from 5:00 pm to closing and during business hours on Saturdays and Sundays.

D. Environmental Review

The project is Categorically Exempt according to Section 15301 of CEQA as adopted by the Town, which exempts permitting an existing facility with no expansion.

SUMMARY AND RECOMMENDATION:

A. Summary:

The change in the hours of operation will change from 10:00 am to 10:00 pm Sunday through Wednesday and 10:00 am to midnight Thursday through Saturday to 10:00 am to 11:00 pm Sunday through Thursday and 10:00 am to midnight Friday through Saturday. Particular findings must be made for alcohol service past 10:00 pm per the Town's Alcohol Beverage Policy.

B. Recommendation:

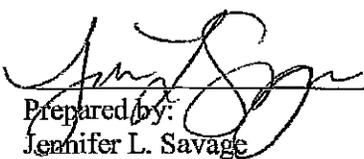
Pursuant to the Town's Alcohol Policy, this matter must be referred to Town Council with a recommendation from the Planning Commission.

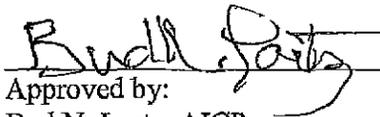
If the Planning Commission finds merit with the proposal, it should:

1. Make the required findings (Exhibit 2),
2. Recommend approval of the application to Council, subject to conditions (Exhibit 3).

If the Commission has concerns with the application, it can:

1. Recommend approval of the application to Council with additional and/or modified conditions of approval, or
2. Recommend denial of the application.


Prepared by:
Jennifer L. Savage
Assistant Planner


Approved by:
Bud N. Lortz, AICP
Director of Community Development

BNL:JS:mdc

cc: Campo di Bocci of Los Gatos LLC c/o Tom Albanese, 565 University Avenue, Los Gatos, CA 95030

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565 University Avenue



RECOMMENDED CONDITIONS OF APPROVAL
August 27, 2008

565 University Avenue
Conditional Use Permit Application U-08-008

Requesting approval to modify the hours of operation for an existing bocce ball facility (Campo di Bocce) on property zoned LM. APN 529-07-096.

PROPERTY OWNER: Campo di Bocce Los Gatos LLC

APPLICANT: Campo di Bocce Los Gatos LLC/Tom Albanese

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Planning Division

1. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and as approved by the Town Council on _____, 2008. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development, the Development Review Committee, the Planning Commission, or the Town Council, depending on the scope of the change(s).
2. EXPIRATION: The Conditional Use Permit modification approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. HOURS: Maximum hours of operation shall be 10:00 am to 11:00 pm Sunday through Thursday, and from 10:00 am to midnight Friday through Saturday.
4. HOURS OF ALCOHOLIC BEVERAGE: The service of alcoholic beverages shall not be permitted after 10:00 pm Sunday through Thursday, except for holidays and evenings before holidays, and shall not be permitted after 11:00 pm Fridays and Saturdays.
5. SEATS: The maximum number of indoor and/or outdoor seats permitted Monday through Friday from 10 AM to 5 PM is 70. The maximum number of indoor and/or outdoor seats Monday through Friday from 5 PM to closing and during the Saturday and Sunday business hours is one hundred twenty (120) provided both leases for the alternate use of parking at 573 University Avenue and 536 N. Santa Cruz Avenue are in effect. If either of the leases for alternate site parking is terminated, cancelled, or not extended, the maximum number of seats permitted is seventy (70) if both leases are canceled, or ninety-five (95) if only one lease is canceled. These seats shall be available for patrons of the food service or waiting to play bocce.
6. SERVICE OF ALCOHOLIC BEVERAGES: Alcoholic beverages may only be served with meals and is permitted for inside and outside seating. A meal is defined as a combination of food items selected from a menu (breakfast, brunch, lunch or dinner). Appetizers such as popcorn, nachos, pretzels, potato skins, relish trays, etc. (hot or cold) are not meals.

7. LITTER: The tenant shall monitor the outside seating area and dispose any litter which is in the vicinity.
8. SIGNS: Large illuminated signs, meeting all Town Code requirements, shall be installed in strategic locations to ensure that motorists are aware of the alternate parking sites. Signs, meeting Town Code, shall also be placed at the entrance to both off-site parking lots to assure patrons that it is acceptable to park in these lots during certain hours.
9. MARKING ALTERNATIVE PARKING SPACES: Fifteen (15) parking spaces in each lot shall be prominently marked as "reserved for patrons of Campo di Bocce during the hours of 5:00pm to 11:00 pm Monday through Thursday, 5:00 pm through midnight Friday, 10:00 am to midnight Saturday, and 10:00 am to 11:00 pm Sunday."
10. DIRECTIONS TO MOTORISTS: During peak times on Friday and Saturday evenings from 7:00 pm to 10:30 pm, the applicant shall make a parking attendant available who shall direct customers to one of two adjoining approved off-site parking lots. Also, parking diagrams shall be handed out by the parking attendants giving patrons clear directions to the adjoining approved off-site parking lots.
11. LIGHTING: The applicant shall provide additional lighting in the parking lots of the alternate parking site within 90 days of approval of this permit. This lighting shall meet all Town requirements and the required permits from the Building Department must be obtained.
12. LEASE AGREEMENTS: That in order to operate a bocce ball/restaurant facility with one hundred twenty (120) seats during the hours of 5:00 pm to 11:00 pm Monday through Thursday, from 5:00 pm to midnight Friday, and 10:00 am to closing Saturday and Sunday, the applicant must at all times be a party to valid and fully enforceable lease agreements, each allowing exclusive use of fifteen (15) parking spaces during the hours of 5:00 pm to 11:00 pm Monday through Thursday, 5:00 pm to midnight Friday, 10:00 am to midnight Saturday, and 10:00 am to 11:00 pm Sunday at 573 University Avenue and 536 N. Santa Cruz Avenue.
13. COPIES OF LEASES: Applicant shall lodge copies of each lease agreement with the Town Community Development Department within three (3) weeks of Town Council decision, and shall lodge copies of subsequently revised, amended, extended or otherwise modified lease agreements, including copies of any correspondence exercising options, terminating or canceling the leases, within five (5) working days after the agreements are signed by the parties or the correspondence is mailed.
14. APPROVED USE: That the restaurant shall only be operated in conjunction with a bocce ball operation providing at all times a minimum of five (5) bocce ball courts, and may not be operated independent of a bocce ball operation without obtaining a new variance allowing off-site parking for a restaurant use only, and a modification of the existing use conditional use permit allowing the operation of a full service restaurant independent of a bocce ball operation.
15. TOWN INDEMNITY: Applicants are notified that Town Code Section 1.10.115

requires that any applicant who receives a permit or entitlement from the Town shall defend, indemnify, and hold harmless the Town and its officials in any action brought by a third party to overturn, set aside, or void the permit or entitlement. This requirement is a condition of approval of all such permits and entitlements whether or not expressly set forth in the approval.

TO THE SATISFACTION OF THE POLICE CHIEF

16. GENERAL. The restaurant is subject to the following:
 - a. Uniformed privately provided security guards may be required in or around the premises by the Chief of Police if alcohol related problems recur that are not resolved by the licensed owner.
 - b. At the discretion of the Chief of Police, periodic meetings will be conducted with representatives from the Police Department for on-going employee training on alcoholic beverage service to the general public.
 - c. All establishments shall use an employee training manual that addresses alcoholic beverage service consistent with the standards of the California Restaurant Association.
 - d. All licensed operators shall have and shall actively promote a designated driver program such as complimentary non-alcoholic beverages for designated drivers.
 - e. Taxicab telephone numbers shall be posted in a visible location.
 - f. Alcoholic beverage service in the outdoor seating area shall have adequate separation from public areas.
 - g. A physical delineation in the form of landscaping or planters is required to separate public and private property. The height of the separation shall be a minimum of three feet. The separation shall be designed to prevent passing or carrying alcoholic beverages outside the restaurant seating area. The separation shall clearly suggest that alcohol is not permitted outside the restaurant seating area.
 - h. A restaurant employee shall seat patrons in the outside dining area.

TO THE SATISFACTION OF CENTRAL FIRE PROTECTION DISTRICT

17. The kitchen shall be provided with an automatic fire extinguishing system for the cooking appliances as may be required. Approved portable fire extinguishers shall also be provided.
18. An approved manual and automatic fire alarm with an approved voice notification system may be required depending on the seating count.

REQUIRED FINDINGS AND CONSIDERATIONS FOR:

565 University Avenue

Conditional Use Permit Application U-08-008

Requesting approval to modify the hours of operation for an existing bocce ball facility (Campo di Bocce) on property zoned LM. APN 529-07-096.

PROPERTY OWNER: Campo di Bocce Los Gatos LLC

APPLICANT: Campo di Bocce Los Gatos LLC/Tom Albanese

FINDINGS

Required findings for a Conditional Use Permit:

- As required by Section 29.20.190 of the Town Code for granting a Conditional Use Permit.

The deciding body, on the basis of the evidence submitted at the hearing, may grant a conditional use permit when specifically authorized by the provisions of the Town Code if it finds that:

- (1) The proposed uses of the property are essential or desirable to the public convenience or welfare; and
- (2) The proposed uses will not impair the integrity and character of the zone; and
- (3) The proposed uses would not be detrimental to public health, safety or general welfare; and
- (4) The proposed uses of the property are in harmony with the various elements or objectives of the General Plan and the purposes of the Town Code.

Required findings for alcohol service past 10:00 pm:

- As required by Chapter II Section 6 of the Town Alcohol Policy for granting alcohol service beyond the hours of 10 pm.

The deciding body shall make the following findings prior to approving an application for a Conditional Use Permit to serve alcoholic beverages past 10PM:

- A. Late night service will not adversely impact adjacent residential neighborhoods.
- B. The applicant does not have a history of complaints and non-compliance with local ordinances or the Alcoholic Beverage Policy.
- C. The applicant has demonstrated a clear benefit to the community.

Required finding for CEQA:

- The project is Categorical Exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

Required finding for development within the Central Los Gatos Redevelopment Project Area:

- That the proposed project is consistent with the Redevelopment Plan for the Central Los Gatos Redevelopment Project Area (Section IV.B).

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RECEIVED

April 23, 2008

This application to modify the existing use permit PRJ 97-059 is being filed for the following reasons.

As an overall general statement I believe that through both the oversights of myself and the Town, not intentionally misreading the final findings of PRJ 97-059 some 10 years ago and by not catching the fact that the hours of operation were changed in error, were not caught by either party. This is an embarrassing situation for both as there was clearly not a motion, request or intention of either party to change the hours of operation after the request for increased hours was denied. The hours should have remained the same as they were voted on back in March of 1996, and as you read through the rest of the facts being displayed, it was clearly not the intent of the Town Council or by Campo di Bocce as evidenced by the minutes of the meeting to have done so. I am glad that this error has been discovered so that it can be corrected. I hope that over the past 11 years of operation we have lived up to the Towns' expectation of providing a facility that has been a place where people have gathered-whether it be a family birthday, a gathering of friends, a corporate team building event, or what we are most proud of, charitable events, that raise funds for the community.

My request at this time is to reinstate the hours of operation that were approved in the original use permit dated March 1996 and of which we have been dutifully abiding by since that time of approval. Thank you.



Tom Albanese
408-210-6945

Enclosed is the letter to the Town of Los Gatos and back up information sent on March 27, 2008

RECEIVED

APR 24 2008

TOWN OF LOS GATOS
PLANNING DIVISION

EXHIBIT 4





TOWN OF LOS GATOS
PLANNING COMMISSION STAFF REPORT
Meeting Date: August 27, 2008

ITEM NO. 5
DESK ITEM

PREPARED BY: Jennifer L. Savage
Assistant Planner

APPLICATION NO.: Conditional Use Permit Modification Application U-08-008

LOCATION: **565 University Avenue** (west side of University Avenue,
approximately one-quarter mile south of Blossom Hill Road)

APPLICANT: Campo di Bocci/Tom Albanese

PROPERTY OWNER: Campo di Bocci of Los Gatos LLC

CONTACT PERSON: Tom Albanese
(408) 404-1046

APPLICATION SUMMARY: Requesting approval to modify the hours of operation for an
existing bocce ball facility (Campo di Bocce) on property zoned
LM. APN 529-07-096.

DEEMED COMPLETE: May 20, 2008
FINAL DATE TO TAKE ACTION: November 20, 2008

EXHIBITS:

- 1-4. Previously Submitted with August 27, 2008 Staff Report.
5. Public Comment (one page), received August 25, 2008.
6. Public Comment (one page), received August 26, 2008.

REMARKS:

The attached public comments were received after publication of the staff report.

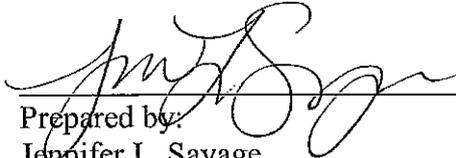
BACKGROUND:

The Town has received concerns from neighbors about noise created from the customers of Campo di Bocce. The Police Department records revealed five noise complaints for 565 University Avenue, all in the year 2000.

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565 University Avenue/U-08-008
August 27, 2008

PUBLIC COMMENTS:

The Town received one public comment on August 25 and a second on August 26, 2008 (Exhibit 5 and 6, respectively).



Prepared by:
Jennifer L. Savage
Assistant Planner



Approved by:
Bud N. Lortz, AICP
Director of Community Development

BNL:JS:mdc

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MIRA LOMA APARTMENTS

225 Avery Lane, #5
Los Gatos, CA 95032
408-354-0827 office
August 21, 2008

TO THE PLANNING COMMISSION

REGARDING CAMPO DI BOCCE, 565 University Avenue, Los Gatos
HEARING ON WEDNESDAY, AUGUST 27, 2008

If they are required to close at 11 or 12 at night, by what time must their customers leave the premises?

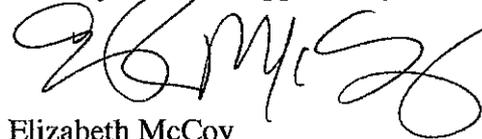
THIS IS A RESIDENTIAL AREA. Many BEDROOMS face Avery Lane.

Sometimes the noise level from the Campo di Bocce is OVER THE TOP very late into the night, especially if they have windows and doors open with fans going.

On weekends it is not unusual to have very drunk and very loud customers weaving down Avery Lane to find their cars. It is annoying to be awakened from a sound sleep; sometimes it takes hours to get back to sleep. When it is particularly loud I get dressed and go out to tell them to be quiet or I will call for the police.

I have phoned management at the Campo di Bocce asking them to take responsibility for the condition of their customers and the noise. There should be accountability on the part of management. Perhaps a security guard there late in the evening would be a consideration to keep an eye on the customers who have had too much to drink to be sure they are reminded that they must be considerate of the residents in that area.

Thank you for the opportunity to vent my angst.



Elizabeth McCoy
Resident Manager
Mira Loma Apartments

Jennifer Savage - Re: Notice about neighbour

From: Chris <wileychris@yahoo.com>
To: Jennifer Savage <jsavage@losgatosca.gov>, <DMichaelKane@aol.com>, <MWasserman@aol.com>, <SANDYDECKERinLG@aol.com>
Date: 8/26/2008 2:09 AM
Subject: Re: Notice about neighbour
CC: Bud Lortz <BLORTZ@losgatosca.gov>

Hello Folks,

I am not there, as many know, and have a concern for the increase of hours for the days for Monday thru Thursday from 10pm to 11pm. The noise level is not acceptable and it keeps folks awake who live near the place. They fail to police the noise and think it is a pain when neighbours tell them to quiet down. When they have group outings and the barn doors are open - the noise can be heard over in the next block. Not fair to us.

Remember, I was the number one backer to this place. I campaigned to the neighbours to let the place be part of the neighbourhood. I do not, in any way want to close them down, but I do expect them to respect the noise level and traffic level. They still have their workers park on my side of the street when I was told that would be left to customers and they would use theirs side of the street first for their staff. Look anytime and under the trees they are parked and they think I am an *itch* when I tell them to move on for my guests. It is a constant fight and they forget they are not the only ones there. Last Easter they took all the spots in front of my house with their staff and thought I was terrible to have them move for my company. It was considered, at one time, to do permit parking on my side. I was not all for that - but it may be a reconsideration for us if this is situation continues.

Thus, please do not allow the later hours on the Mon thru Thurs nights. I am happy to let others stay in my place to listen to the sounds and I guarantee you would be surprise how loud it is. I would bet if you have to be in work every day by 6, leaving the house by 5:30 to such, you would not appreciate the sound.

Please let me know if you need anything else from me.

Cheers, Chris Wiley
 544 University Avenue
 Los Gatos, CA 95032

Jennifer Savage <jsavage@losgatosca.gov> wrote:

Campo di Bocce's hours are **not** increasing. Their current operating hours do not reflect the operating hours that were approved by Town Council in 1999. This application, if approved, will allow Campo di Bocce to continue to operate with their current hours of operation.

Hours approved in 1999: Sunday - Wednesday, 10am -10pm, Thursday - Saturday, 10am -12am.
Current and proposed hours: Sunday - Thursday, 10am -11pm, Friday - Saturday, 10am -12pm.

Please let me know if you have any other questions.

Sincerely,

EXHIBIT 6